

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAWRENCE R. MOYER,

Plaintiff,

No. CIV S-03-1350 FCD DAD P

vs.

JAMES E. TILTON, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding through counsel, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On February 20, 2008, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within ten days. Both parties have filed objections to the findings and recommendations. Both parties have filed replies.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the

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entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed February 20, 2008 are adopted in full;

2. Defendants' motion to dismiss plaintiff's state Ex Post Facto claim for failure to comply with the CTCA is granted and the claim is dismissed with prejudice to the extent plaintiff seeks monetary damages;

3. Defendants' motion to dismiss plaintiff's state Takings Clause claim for failure to comply with the CTCA is denied;


4. Defendants' motion to dismiss plaintiff's federal Takings Clause claim as unripe is denied;

5. Defendants' motion to dismiss plaintiff's federal and state Takings Clause claims for failure to state a cognizable claim is denied;

6. Defendants' motion to dismiss plaintiff's federal Ex Post Facto Clause and Takings Clause claims on grounds of qualified immunity is granted and those claims are dismissed with prejudice to the extent plaintiff seeks monetary damages from defendants in their individual capacity; and

7. Defendants' motion to dismiss plaintiff's state Ex Post Facto Clause and Takings Clause claims on grounds of statutory immunity is granted and those claims are dismissed with prejudice to the extent plaintiff seeks monetary damages from defendants in their individual capacity.

DATED: March 25, 2008.


FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE